IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TODD VINCENT,

       Petitioner

v.   //   CIVIL ACTION NO. 1:04CV219
                                  CRIMINAL NO. 1:03CR30
                                  (Judge Keeley)

USA,

       Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 12, 2004, pro se petitioner Todd Vincent filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2255. The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

On April 1, 2005, Judge Kaull issued an Opinion and Report and Recommendation recommending that Vincent's Motion to Vacate and Supplemental Motion to Vacate be denied and the case be dismissed without prejudice.

The Report and Recommendation also specifically warned that failure to object to the recommendation would result in the waiver of any appellate rights on this issue. Nevertheless, no objections have been filed any objections.[1]

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[1]The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety. Accordingly, the Court **DENIES** the motion to vacate (Docket No. 22 in 1:03CR 30 and Docket No. 1 in 1:04CV219) and the supplemental motion to vacate (Docket No. 23 in 1:03CR30) and **ORDERS** Vincent's case **DISMISSED WITHOUT PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to the <u>pro se</u> petitioner, certified mail, return receipt requested.

Dated: April _____*29*_____, 2005.

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                        IRENE M. KEELEY
                        UNITED STATES DISTRICT JUDGE

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